

State Transfer of Development Rights Enabling Legislation

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Transfer of Development Rights (TDRs) are currently enabled by Delaware Code and in use in several jurisdictions. This legislation will enhance current efforts by enabling county level TDR banks and allowing receiving zones to use a special mechanism called Special Development Districts to plan for and fund needed infrastructure.

Highlights of the Legislation:

- Local Governments must include TDRs in their comprehensive plans, and enact ordinances to enable them.
 - Receiving areas must be in “growth zones” and be consistent with State Strategies.
 - Annexation areas are to become receiving areas.
 - Local governments (municipal or county) to receive 10% of TDR transfers as an incentive to use TDRs.
 - Participating local governments can also request priority for State grants and other assistance.
- Legislation enables and sets the parameters for a TDR bank in each county.
 - Criteria in the bill are minimum standards. Counties have broad latitude to develop a banking program that will meet the needs of local conditions.
 - Private TDR transfers are still allowed.
- Legislation enables and sets up parameters for Special Development Districts (SDDs)
 - SDDs are master planned to define needed infrastructure upgrades, and provide financial mechanisms to fund these improvements.
 - TDR use mandatory in order to take advantage of SDDs
 - Base density criteria will apply to SDD areas
 - Base density set at existing County density
 - Must develop 4 du / acre at a minimum
 - Must use at least TDRs per acre of development area
 - Mixed use is required in SDDs
- SDDs have a number of potential benefits
 - Master plans should help determine and plan for cumulative effects of development.
 - New residents “pay their way” by funding needed improvements
 - Special tax district approach
 - or developers are required to pay for infrastructure
 - Master Plan is reviewed once by the State (PLUS, TIS, etc.)
 - Individual developments need not go through these reviews again as long as they develop according to the Master Plan.